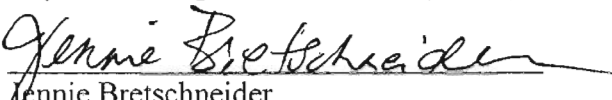




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June 10, 2008

To: County Clerks/Registrars of Voters (08204)

From: 
Jennie Bretschneider
Assistant Chief Deputy Secretary of State

Subject: SOS Post Election Manual Tally (PEMT) Requirements

The Secretary of State's Post Election Manual Tally (PEMT) requirements attached to the use of certain voting systems call for a 10% manual count of contests where the margin of victory after completing the semi-final official canvass is less than 0.5%.

For the June 3, 2008, Statewide Primary Election, none of California's legislative, Congressional, or statewide ballot measure contests fell with a 0.5% margin of victory. After checking local election results throughout the 58 counties, our office has identified 9 local contests with a margin of victory of less than a 0.5%, requiring a 10% manual count under the PEMT. Attached is a list of those contests.

Please note that political party central committee contests do not fall within the PEMT requirements, because those contests do not involve public offices.

For your convenience, attached is a copy of the PEMT requirements and suggested instructions for conducting a PEMT manual count. These documents are also posted on the Secretary of State website as follows:

PEMT Requirements:

http://www.sos.ca.gov/elections/voting_systems/ttbr/post_election_req.pdf

PEMT Suggested Instructions:

http://www.sos.ca.gov/elections/voting_systems/ttbr/pemt_instructions.pdf

I hope this information is helpful to you as you complete your canvass. If you have questions, need assistance, or you have a local contest with a margin of victory of less than 0.5%, which does not appear on the attached list, please contact me at (916) 208-8656.

Post Election Manual Tally (PEMT) Requirements

Local Contests Within 0.5% Margin of Victory

County	Contest(s)	10% Manual Tally Date
Alameda	1) Hayward City Council 2) Alameda Unified School District Measure H	Mon. June 23 rd
Fresno	Central Unified School District Measure E	TBA
Imperial	1) Calexico City Council 2) Measure B	Wed. June 11 th
Marin	Mesa Park Measure E	Fri. June 13 th
Riverside	Proposed Menifee Valley Council	Wed. June 11 th 9:00 a.m.
Santa Clara	San Jose City Council, District 2	TBA
San Mateo	Millbrae School District Measure P	TBA



Post-Election Manual Tally Requirements

All post-election manual tally requirements must be completed within the canvass period established by Elections Code §10262 and §15372.

Increased Sample Size for Close Contests: Sampling Thresholds

Elections officials shall conduct a manual tally of 10% of randomly selected precincts for any contest where the margin of victory is less than one half of one percent (0.5%). The 10% manual tally must only be conducted for the contest in question, not the entire ballot. All precincts already randomly selected for the manual tally conducted under Elections Code §15360 may be included in the 10% manual tally. The margin of victory shall be based on the semifinal official canvass results, as defined in Elections Code §353.5.

In contests that include more than one jurisdiction, individual jurisdictions shall look to the overall margin of victory in the contest, based on the semifinal official canvass results, instead of the margin of victory only within the jurisdiction. For example, in a contest that spans two counties, if the margin of victory within one county is less than 0.5%, but the overall margin of victory in the contest according to the semifinal official canvass results is more than 0.5%, then a 10% manual tally is not required in either county. Conversely, however, if the margin of victory within a given jurisdiction is more than 0.5%, but the overall margin according to the semifinal official canvass results is *less* than 0.5%, then each jurisdiction involved in the contest shall conduct a manual tally of 10% of the precincts in which voters cast ballots for that contest in the jurisdiction.

Alternatively, elections officials may, at their discretion, conduct a 100% manual tally of the ballots in a given contest if the margin of victory is less than one half of one percent (0.5%). This alternative may be useful for very small contests in which fewer than 1,000 votes are cast and may allow for more efficient planning of the manual tally process established in Elections Code §15360.

Escalation Requirements for Variances

When variances between the semifinal official canvass results and the manual tally results are discovered, elections officials must document and disclose those variances and take the following steps to resolve the variances:

- Variances found in the manual tally sample for a given contest must be presumed to exist in at least the same proportion in the remaining ballots cast in the contest.

- To calculate the variance percentage for each contest, compare the total number of variances found in the manual tally sample for the contest to the total ballots cast for that contest in the manual tally sample. If the variance percentage represents at least 10% (one-tenth) of the margin of victory for that contest based on the semifinal official canvass results, then additional precincts must be manually tallied for that contest. This requirement is designed to guard against the possibility that the percentage of variances in the remaining ballots is higher than that found in the manual tally sample.
- Additional precincts must be tallied in randomly selected blocks of 5% until the total number of variances presumed to exist – re-calculated using the method above – is smaller than 10% of the overall margin of victory in that contest, based on the semifinal official canvass results, or until all ballots have been manually tallied, whichever comes first.
- If any variance is found between manually tallied VVPAT records and corresponding electronic vote results that cannot be accounted for by some obvious mechanical problem, then the VVPAT records, memory cards and devices, and DRE machines must be preserved and the Secretary of State must be notified in order to allow for an investigation to determine the cause of the problem. The Secretary of State shall conduct the investigation in such a manner as to minimize adverse impact on the conclusion of the canvass and certification of the election, as well as preparation for any upcoming elections.
- For multi-winner elections, the margin of victory is the difference between the candidate who had just enough votes to win a seat and next candidate below. For example, for a contest with three open seats, the margin of victory would be the difference between the third and fourth place candidates. The margin of victory shall be measured using the semifinal official canvass results.

Transparency Requirements

Elections officials must ensure implementation of the following procedures to make the post-election manual tally process more transparent and effective:

- Precinct tally results must be made available to the public before the manual tally of those results begins.
- Elections officials must begin the manual tally as soon as practicable after the random selection of precincts for the manual tally.
- The manual tally must be conducted in public view by hand without the use of electronic scanning equipment.
- Elections officials shall comply with the notice requirements established in Elections Code §15360 when conducting any post-election manual tallying

required by this recertification. However, elections officials may accomplish this by providing one notice containing the times and places of: 1) the initial selection of precincts for the 1% manual tally and any 10% manual tally required; 2) the beginning of the manual tally process; and 3) any additional selection of precincts which may become necessary to comply with escalation requirements.

- Observers must not be permitted to touch ballots or interfere in any way with the tallying, but observers must be permitted to watch the process in a manner that allows them to verify the tally.
- Elections officials shall keep a log to record the manual tally process, including the results of each round of manual tallying for each precinct included in the sample, how variances were resolved, and details of any actions taken that are contrary to written protocols. The log must be made available to the public.
- Undervotes and overvotes must be tracked and reported as part of the manual tally process. Elections officials must take measures to ensure that cancelled DRE ballots are not inadvertently tallied as valid ballots in the manual tally process. (Damaged ballots are not included, because they are not valid ballots and therefore not electronically tallied.)
- People conducting the manual tally should not be told the corresponding electronic vote results in case a repeat tally is necessary. Poll workers involved in the manual tally may not be assigned to tally the results from a precinct where they worked on Election Day.

**Suggested step-by-step instructions
to assist in complying with the
Post-Election Manual Tally Requirements**

1. Complete semifinal official canvass.
2. Calculate the margin of victory for each contest on the ballot based on the semifinal official canvass results. Results for legislative and statewide contests will be posted on the Secretary of State's website.
 - a. "Margin of victory" is the percentage difference between the first place and the second place candidate in a given contest. For a contest involving a measure, the "margin of victory" is the difference between the "Yes" and the "No" votes. For a multi-winner contest, the "margin of victory" is the difference between the candidate who had just enough votes to win a seat and next candidate below. For example, for a contest with three open seats, the margin of victory would be the difference between the third and fourth place candidates.
 - b. The margin of victory for contests that include more than one jurisdiction is overall margin of victory in the contest, not the margin of victory within the jurisdiction. For the February 5th Presidential Primary Election, elections officials are only required to conduct a 10% manual count for a statewide ballot measure or Presidential primary contest if the statewide margin of is less than 0.5% following the semifinal official canvass results. This ensures elections officials only conduct a 10% manual count if the outcome of the contest is at stake, rather than simply because the margin of victory was narrow within a given county.
3. If a contest has an overall margin of victory of less than one half of one percent (0.5%), conduct a 10% manual tally.
 - a. Randomly select precincts until 10% of the precincts in the contest have been selected. Precincts manually tallied under Elections Code §15360 may be included as part of the 10% manual tally.
 - b. Manually tally the results for that contest from the precincts selected for the 10% sample. The 10% manual tally is only required for the contest in question, not the entire ballot.
4. Track variances between the machine tally and manual tally.
 - a. A "variance" is any difference between the machine tally and the manual tally for a given candidate or measure. For example, if the manual tally uncovers that a machine tally error causing a vote for Candidate A to be attributed to Candidate B, then two variances exist because the vote totals for Candidate A and for Candidate B are each changed by one vote in the manual tally. If the machine tally results in an undervote, but the manual tally uncovers the ballot was marked but not read by the machine, then one variance exists because the undervote becomes a vote for a candidate or measure.
5. Document and disclose any variances and any steps taken to resolve the variance.

- a. If any variance is found between manually tallied VVPAT records and corresponding electronic vote results that cannot be accounted for by some obvious mechanical problem, then the VVPAT records, memory cards and devices, and DRE machines must be preserved and the Secretary of State must be notified in order to allow for an investigation to determine the cause of the problem. The Secretary of State shall conduct the investigation in such a manner as to minimize adverse impact on the conclusion of the canvass and certification of the election, as well as preparation for any upcoming elections.
6. Calculate a variance percentage for each contest as follows:
 - a. Add the total number of variances between the machine tally and the manual tally for each candidate in a contest. For measures, add the total number of variances between the machine tally and the manual tally for votes cast for and against the measure. Do not include overvotes or undervotes.
 - b. Add the total number of votes cast for each candidate in a contest. For measures, add the total number of votes cast for or against the measure. (Do not include overvotes or undervotes.)
 - c. Divide the total number of variances for each contest by the total number of votes cast in each contest.
 - d. Multiply by 100 to create a percentage.
 - e. If the percentage is equal to or greater than one-tenth of the overall margin of victory for that contest, go to step 7. For example, if within the manual count sample four variances are found in one contest and a total of 10,000 votes were cast for all candidates in that contest, then the variance percentage is 0.04% for that contest. If the overall margin of victory in the contest is 0.4% or less, then elections officials must manually tally additional precincts, because 0.04% is one-tenth of 0.4%.
7. Manually tally additional precincts as follows:
 - a. Randomly select precincts until an additional 5% of the precincts in the contest have been selected.
 - b. Manually tally the results for the contest from the precincts selected for the additional 5% sample. The additional 5% manual tally is only required for the contest in question, not the entire ballot.
 - c. Return to step 6 and recalculate the cumulative variance percentage for the entire manual tally sample for the contest. Stop when the total variance percentage is smaller than one-tenth of the overall margin of victory in the contest, based on the semifinal official canvass results, or until all ballots have been manually tallied, whichever comes first. For example, if the total variance percentage in a 15% sample (10% plus an additional 5%) equals 0.03% and the margin of victory is 0.4%, then no further precincts are required to be manually tallied, because 0.03% is less than one-tenth of 0.4%.

Secretary of State

County

Precinct

Election Date

Contest

Contest Type (single-, multi-winner)

Precinct Selected For (circle one): 1% Tally

Add'l Precinct for 1%

10% PENT*

PENT Escalation

Other

[illegible]

Overvotes		
Undervotes		

The Post-Election Manual Tally Requirements (PEMT) can be viewed on the Secretary of State's website: http://www.sos.ca.gov/elections/voting_systems/tlbr/post_election_req.pdf

http://www.sos.ca.gov/elections/voting_systems/tlbr/post_election_req.pdf

.. A "variance" means each difference between the machine tally and the manual tally. Do not include differences between the machine and manual tally that are resolved by repeating the manual tally of the ballots.

**Secretary of State
Post-Election Manual Tally Log
Summary Information**

County _____
Election Date _____

Your input here will help the Secretary of State provide guidance and support to counties in the manual count process.

Date and time of random selection of precincts:

Method used for random selection of 1% precincts:

Method used for additional precincts selected at the discretion of the elections official, as required by EC 15360(a), for races not included in initial group of precincts selected for the 1% manual tally:

Was random selection of precincts conducted after completion of semi-final official canvass results? (Y/N)

Dates and times of manual tally:

Ballot types (optical scan, voter verified paper audit trail (VVPAT):

If the jurisdiction used direct recording electronic (DRE) voting machines, were VVPAT rolls cut or left intact?

What was the total number of each of the following categories of ballots?

Blank
Spoiled
Cancelled
Invalidated

How many people were used for each manual tally team and the roles of each person (e.g., announcer, manager, observer, checker, tallier, etc.)?

Approximately how many public observers were present during the manual tally on average?

Please describe the resources that were used to complete the manual tally (staff hours, material and facility costs, security costs)?